

Request *for* Proposal

522-8694

Three-Year Contract for Financial Advisory Services for the City of Fort Lauderdale, Florida

***Opens: May 13, 2002
2:00 p.m.***



City of Fort Lauderdale

***Issued for Finance Department/Treasury Division
By the Procurement & Materials Management Division***

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Visit us on the web at www.ci.fort-lauderdale.fl.us/purchasing***

(954) 828-5140

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PART I - RFP SCHEDULE

RELEASE OF THE RFP **4/11/2002**

**LAST DATE FOR RECEIPT OF QUESTIONS
OF A MATERIAL NATURE** **4/25/2002
5:00 PM**

ADDENDUM, IF REQUIRED **4/30/2002**

RFP OPENS **5/13/2002
2:00 PM**

**PRELIMINARY EVALUATION COMMITTEE REVIEW, AND
IF POSSIBLE SHORT-LIST OF PROPOSALS** **WEEK OF 5/13/2002**

**EVALUATION COMMITTEE ORAL PRESENTATIONS FROM
SHORT-LISTED PROPOSERS, AND FINAL RANKING – IF REQUIRED** **WEEK OF 5/20/2002**

AWARD OF CONTRACT, ANTICIPATED **June 4, 2002**

CONTRACT START DATE, ANTICIPATED **July 1, 2002**

The City intends to make an award of this contract in accordance with the above outlined schedule. Proposers shall note the importance of this schedule compliance in the submittal of any RFP response.

PART II - INTRODUCTION/SPECIAL INSTRUCTIONS

1. PURPOSE: The City of Fort Lauderdale is actively seeking proposals from qualified firms for the purpose of retaining a consultant, hereinafter referred to as the Contractor, to provide Financial Advisory Services to meet the City's financing needs, in accordance with the Request For Proposal (RFP) specifications.

2. INFORMATION: For information concerning procedures for RFP procedures, contact Linda Wilson, Procurement Specialist II, at (954) 828-5933. For information concerning the technical information contained in this RFP, contact Clyde Cole, Treasurer, at (954) 828-5157. Such contact is to be for clarification purposes only. Material changes, if any, to the Special Conditions, technical specifications, or RFP procedures shall only be handled through written addendum.

2.1. Last Date for Questions: Any questions that proposer wish to be addressed and which might require an addendum must be submitted to the Procurement Specialist in writing prior to **April 25, 2002, 5:00 PM**. It is preferred that all questions be submitted in writing to the Procurement Division, 100 North Andrews Avenue, Fort Lauderdale, FL, 33301, attn: Linda Wilson. To facilitate prompt receipt of questions, they can be sent via FAX to (954) 828-5576; or e-mailed to lindaw@ci.fort-lauderdale.fl.us

A written addendum, if required, will be issued within 3 days of the last date for receipt of questions to all proposers who have received a copy of this RFP directly from the City, or who have downloaded this RFP from the City's Purchasing webpage and have notified us of that download. Questions of a material nature must be received prior to the cut-off date specified in the RFP Schedule. Proposers please note: No part of your proposal can be submitted via FAX. The entire proposal must be submitted in accordance with the Instructions To Proposers contained in this RFP.

3. CONTRACT PERIOD: The contract shall be for an initial term of three (3) years. The City reserves the right to extend the contract for one (1) additional (3) year term providing (a) both parties to the contract agree to the extension; (b) all the terms, conditions, and specifications remain the same, and (c) such extension is approved by the City.

4. CONTRACT COST ADJUSTMENTS: The costs as proposed and accepted by the City shall be firm for the initial contract term. The costs for subsequent terms shall be subject to an adjustment only if increases or decreases have occurred in the industry and are properly documented. Any requested cost adjustment shall be submitted to the City at least sixty (60) days prior to the contract anniversary date.

The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs, and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel the contract upon giving thirty (30) days notice to the Contractor.

5. ELIGIBILITY: To be eligible to respond to this RFP, the proposing firm must demonstrate that they, or the principals assigned to the project, have successfully completed services, similar to those specified in the Scope of Services section of this RFP, to at least one City similar in size and complexity to the City of Fort Lauderdale.

6. MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION: It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are

also requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract. See General Conditions Section 1.08 for MBE and WBE definitions.

6.1. Certification by Broward County, Florida: If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/vendor is claiming minority status in accordance with Section 1.08 of the General Conditions, then said awarded contractor/vendor shall apply for certification by Broward County, Florida, ***Division of Equal Employment and Small Business Opportunity***. Contractor/vendor shall provide documentation of application status, and once approved or disapproved by Broward County, must also provide that documentation to the Purchasing Division of the City of Fort Lauderdale.

7. ADDITION OR DELETION OF SERVICES: The City may require additional services not specifically listed in the RFP. The Contractor agrees to provide such services, and shall provide the City with prices on such additional items based on a formula or same method similar to that used in establishing the prices in this RFP.

If the prices or Contractual terms offered are not acceptable to the City, and the situation cannot be resolved to the satisfaction of the City, the City reserves the right to procure those items from other vendors, or to cancel the Contract upon giving the Contractor thirty (30) days written notice. The City reserves the right to add to the services specified in this proposal, or to delete any portion of the resulting Contract, at any time, and if such right is exercised by the City the total fee shall be increased or reduced in the same ratio as the estimated cost of the work added or deleted to the estimated cost of the work as originally planned. If work/service has already been accomplished on the portion of the Contract to be deleted, the Consultant(s) shall be paid for the deleted portion on the basis of the estimated percentage of completion of such portion.

8. INSURANCE REQUIREMENTS: The Contractor shall provide at his sole cost and expense: Workers Compensation as required by Florida Statutes for benefit of Contractor employees, and Professional Liability Insurance with limits of one million dollars, **(\$1,000,000.00)**. **The Contractor shall provide to the Procurement Division original certificates of such coverage prior to engaging in any activities under this contract.**

Such certificate(s) shall have no less than thirty days notice of cancellation. No work can be started until the certificate is submitted and approved by the City's Risk Manager.

9. SELLING, TRANSFERRING OR ASSIGNING CONTRACT: No contract awarded under these terms, conditions and specifications shall be sold, transferred or assigned without the written approval of the City Manager, or designee.

10. RECORDS, AUDITS: The Contractor shall maintain during the term of the contract all books of account, receipt invoices, reports and records in accordance with generally accepted accounting practices and standards. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. The Contractor must comply with recommendations for change, additions or deletions, by the City's Internal Auditor. The City's Internal Auditor must be permitted, during normal business hours, to audit and examine the books of account, reports and records relating to this contract. The Contractor shall maintain and make available such records and files for the duration of the contract and retain them beyond the last day of the contract term for the period of two (2) years following the contract expiration.

11. INVOICES, PAYMENT: The City will accept invoices no more frequently than once per quarter for basic retainer services. Each invoice shall fully detail the amounts stated on the invoice. Fees (if any) for bond issuance service may only be invoiced upon issuance of the debt and receipt of proceeds by the City.

The City will endeavor to pay all invoices within thirty (30) days of receipt, except for items questioned. The City will make every attempt to notify the Contractor within fifteen (15) days of receipt of invoice of any items questioned. The Contractor shall prepare verification data for the amount claimed and provide complete cooperation of any areas in the invoice subject to question.

12. PUBLIC ENTITY CRIMES: A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

13. CONFLICT OF INTEREST: The successful proposer will be required to include a disclosure statement of any potential conflict of interest that the firm may have due to other clients, contracts or interests associated with this Contract. **The successful Contractor selected as financial advisor shall not be permitted to serve in any capacity as an underwriter of City debt.**

14. VARIANCES: While the City allows Contractors to take variances to the RFP terms, conditions, and specifications, the number and extent of variances taken will be considered in determining proposal responsiveness and in allocating proposal evaluation points. See Section 1.06 of GC.

15. NEWS RELEASES/PUBLICITY: News releases, publicity releases, or advertisements relating to this contract or the tasks or projects associated with the project shall not be made without prior City approval.

16. RFP DOCUMENTS: The Contractor shall examine this RFP carefully. Ignorance of the requirements will not relieve the Contractor from liability and obligations under the Contract.

17. PROPOSERS' COSTS: The City shall not be liable for any costs incurred by proposers in responding to this RFP.

18. RULES AND PROPOSALS: The signer of the proposal must declare that the only person(s), company or parties interested in the proposal as principals are named therein; that the proposal is made without collusion with any other person(s), company or parties submitting a proposal; that it is in all respects fair and in good faith, without collusion or fraud; and that the signer of the proposal has full authority to bind the principal proposer.

19. LOBBYIST ACTIVITIES: Any bidder or proposer submitting a response to this solicitation must comply, if applicable, with the City of Fort Lauderdale Ordinance No. C-00-27, Lobbying Activities. Copies of ordinance No. C-0028 may be obtained from the City Clerk's Office on the 7th Floor of City Hall, 100 North Andrews Avenue, Fort Lauderdale, FL #33301. The Ordinance may also be viewed on the City's website at: <http://ci.ftlaud.fl.us/documents/index/htm>.

20. SUBSTITUTION OF PERSONNEL: It is the intention of the City that the Contractor's personnel proposed for the contract will be available for the initial contract term. In the event the Contractor wishes to substitute personnel, he/she shall propose personnel of equal or higher qualifications and all replacement personnel are subject to prior City approval. In the event substitute personnel are not satisfactory to the City, and the matter cannot be resolved to the satisfaction of the City, the City

reserves the right to cancel the Contract for cause. See Section 5.09 General Conditions.

21. SUBCONTRACTING: In the event subcontracting is permitted, each subcontractor candidate shall be promptly reported to the City with enough detail to allow the City to properly review the proposed candidate. The City reserves the right to approve or disapprove of any subcontractor candidate that it determines to be in its best interest.

22. GENERAL CONDITIONS: RFP General Conditions Form G-107, Rev. 7/01 (GC) are included and made a part of this RFP as **EXHIBIT “A”**.

PART III - SCOPE OF SERVICES/TECHNICAL INFORMATION

1. SCOPE OF SERVICES:

General Information: Although the size, number and frequency of any debt issues are undetermined, at this time, it is known that the City will need to obtain financing for various projects currently underway and still in the planning stages. We currently have plans for the following financings:

- A. Water & Sewer Master Plan – This is a \$500 Million recapitalization and expansion of our Utility System. We anticipate borrowing approximately \$400 Million and fund the balance with internally generated funds. The selected Financial Advisor will be part of a team of consultants and city personnel assembled for this purpose. The Plan is expected to take 10 years to complete. Financing will be on an “as needed” basis.
- B. Enhanced Capital Improvement Program – We anticipate issuing approximately \$25 Million over the next 3 – 5 years on an ‘as needed’ basis for the recapitalization and refurbishment of an existing general capital assets.
- C. Miscellaneous Small Financings – Various small financings come up during the course of business that must be dealt with appropriately. To handle them, we have in place a \$10 Million lease arrangement with SunTrust Leasing. It is used to fund the purchase of miscellaneous items that are not large enough for a debt issuance.

- 1.1. **Duties of Contractor:** The following duties shall be performed by the Contractor during the contract period:

A. Minimum Annual Fee Services:

- 1. Analyze financial and economic factors on an on-going basis that will determine if the City should proceed with the issuance of refunding bonds on existing debt.
- 2. Assist City officials with in-house financings where bond issues are not deemed appropriate or desired. Assistance to include but not necessarily be limited to review of proposed Invitation to Bid (Bid)/RFP documents, recommendations on collateral pledges, financing duration, debt repayment schedules, and review of Bid/RFP responses to confirm in-house award recommendations.
- 3. Assist City officials in their reviews of proposed project financings presented to the City by outside developers for economic revitalization efforts within the City.

B. Additional Services in Connection with Bond Issues:

- 1. With assistance from City staff, develop a financing plan including recommendations as to the timing and amount of bonds to be issued.
- 2. Advise city officials of various financing methods that may be available to the City, and provide analyses of the economic differences associated with the methods.
- 3. Provide an analysis of the sensitivity of different interest rates and financing plans on the City’s annual debt service, and an overall debt picture of the City. The City Finance Department will provide the Contractor with debt service schedules, historical revenue trends, millage levels, taxable valuations, and other related information.
- 4. Advise the City of both the advantages and disadvantages of competitive vs. negotiated sales.
- 5. If the City plans a negotiated sale, assist in developing RFP specifications for underwriter services, and provide assistance in the selection of investment banking firms, if required by

the City. Make recommendations as to the number of underwriter or investment banking firms needed to successfully market the issue.

6. Provide assistance in developing and evaluating RFP's or other materials, if required, to obtain the:

- a.** services and costs of a paying agent/registrar.
- b.** outside printing services for Preliminary and Final Official Statements, Certificates, and other major printing requirements associated with debt issuance.
- c.** assignment of roles and responsibilities of investment bankers, trustee, registrar, paying agent, insurers, consultants and other team members to facilitate the financing, and to insure all team members understand and perform their respective responsibilities.

7. Develop a timetable for the debt issuance and update as events occur.

8. Work with City and outside counsel in the development of a coordinated approach for the overall requirements of the financing program.

9. With prior City approval, arrange for advertisements in the appropriate trade journals.

10. Assist the City in preparation of a presentation package to be submitted to selected rating agencies and accompany city officials when requested.

11. Arrange and assist the City in presentations to rating agencies, as necessary.

12. Provide expert testimony at validation hearings, if required.

13. Analyze the cost and potential benefits of municipal bond insurance, and advise the City as to whether or not the issue should be insured; and if insured, prepare a presentation to insurance companies, attend and participate as may be appropriate.

14. Assist the City in setting forth the terms and conditions under which issued bonds are purchased including, but not necessarily limited to: maturity schedules, covenants, redemption provisions, flow of funds, issuance expenses, costs, discount/premium, interest rates.

15. Keep City staff informed of relevant developments in the credit markets.

16. Advise the City on the condition of the bond market at the time of sale, including volume and timing considerations, competing offerings, and general economic considerations.

17. Provide the City with assurances that the pricing of the bonds will give the City the lowest financing costs, including interest, based on the bond market at the time of issuance.

18. Advise the City as to the acceptance or rejection of the bids to purchase the bonds received at public sale, or the bond purchase agreement received from the investment bankers through a negotiated basis.

19. Prepare for the City the Official Statements needed for competitive sale of bonds, and submit any and all filings to the various State and Federal Agencies associated with bond issues.

20. Assist, coordinate and supervise the closing details, including but not necessarily limited to: transcripts, bond printing, "CUSIP" numbers, delivery, transfer of funds, purchase of State and local government securities (SLGs) in order to bring the financing to a prompt and successful conclusion.

21. Provide other assistance, advice and services to the City as may be appropriate in the role of the Financial Advisor.

21.1. Compensation:

a) It is anticipated that payment for services will be predicated on the City paying an annual fee in quarterly installments, covering a stated minimum number of hours of proposer services to be expended on City projects in connection with this RFP. Proposer shall provide a breakdown showing; those services included in the annual fee; those persons who will be assigned to the Contract; and the proposed number of hours each person represents to the total minimum hours.

b) **Out of Pocket Expenses:** The City will either pay directly or reimburse the firm for out-of-pocket expenses costs associated with financings, if applicable. These reimbursables include: travel, per diem, and meals, **in accordance with City policies and limits.** Travel reimbursement is applicable only when such travel is outside the tri-county area (Dade, Broward and Palm Beach Counties).

Fort Lauderdale Per Diem Reimbursement Schedule:

Breakfast: \$10.95 Lunch: \$11.35 Dinner: \$28.25 Taxi:
\$7.00 from Airport to Downtown

Per Diem Hotel Reimbursement Maximums:

FT LAUDERDALE	Broward	Seasonal-Peak	12/15	4/30	\$100.00		
FT LAUDERDALE	Broward	Seasonal-Off	5/1	12/14	\$69.00		

Additionally, the City will reimburse the Contractor for overnight express charges, when required. Eligibility for payment or reimbursement shall be governed by the City's Purchasing and Internal Audit guidelines, and are limited to those expenses noted.

Word Processing, computer time, routine telephone, and facsimile transmissions will not be considered "out of pocket" expenses. Prior approval must be obtained from the Director of Finance, or designee, for any expense not covered in this section to be eligible for subsequent payment/reimbursement.

c) Each proposer shall provide, as a part of the RFP response, a fee schedule for services over and above those encompassed by the annual retainer that may be required in connection with specific debt financings.

The fee schedule shall be provided based on a "per bond" basis (i.e. per \$5,000) or on a "per issue" basis. If the successful Contractor proposes both bases, then the City will chose the one it feels most advantageous.

Proposed fees shall be firm for the first three years of the Contract.

21.2. Proposer shall submit as a part of the RFP response, a copy of any contract that the City may be expected to sign, otherwise this submitted bid will be considered a binding agreement for the period covered by the bid. Any agreement or contract that results from acceptance of a proposal shall be subject to review and modifications by the City Attorney, and must contain all terms, conditions, and specifications of the RFP.

21.3. Available City Information : Audited Financial Statements for the City are available through September 30, 2000. Due to limited quantities readily available, financial statements provided to interested proposers may be limited to the General Purpose Financial Statements. Complete copies of our Audited Annual Financial Reports through 9/30/99 are currently available on the City's Web Site at Ci.Fort-Lauderdale.fl.us. The reports for the periods ended 9/30/00 and 9/30/01 are in the process of being made available at this site also.

The City's current debt ratings are as follows:

	Moody's Investors <u>Service</u>	Standard and <u>Poor's</u>	<u>Fitch</u> <u>IBCA</u>
General Obligation Bonds	Aa2	AA	
Excise Tax Improvement Bonds	A1	A+	
Sanitation Revenue Bonds	A1		A+

PART IV - EVALUATION AND AWARD PROCEDURES

EVALUATION & AWARD: The City will evaluate all responsive and responsible proposals to determine which proposal best meets the needs of the City, based on the RFP requirements and the evaluation criteria. Evaluation will be made by a committee established for this purpose, composed of City staff and other qualified persons.

The award will be based on a review of all the information submitted, plus a review of the references submitted. The award will be based on certain objective and subjective considerations including:

<u>EVALUATION CRITERIA</u>	<u>ASSIGNED POINTS</u>
1. Experience and qualifications of the Firm	25
2. Qualifications of Individuals assigned to the project and their experience and understanding of the needs of the City. This criteria will include consideration by the City of the proposer's narrative concerning his/her policy, actions, and intended participation of minorities and women in the performance of the contract.	35
3. Methodology and approach to be applied to contract services.	25
4. Total Cost to the City (Lowest cost will receive maximum points)	15
TOTAL MAXIMUM SCORE:	100

Finalists who achieve an Average Score of 70 points or better, may be asked to appear before the Evaluation Committee to make an oral presentation, provide additional clarifications, to provide copies of prior work, if requested, and to make their facilities available for inspection by the Evaluation Committee, if so desired. Such oral presentation(s), and work samples, if required, shall be for clarification purposes only.

The City reserves the right to award the contract with that Proposer who will best serve the interest of the City. The City reserves the right, based upon its deliberations and in its opinion, to accept or reject any, all, or any part of any proposals. The City also reserves the right to waive minor variations to the specifications and in the RFP process.

PART V - INSTRUCTIONS TO PROPOSERS

1. Each proposal shall be prepared simply and economically, providing a straightforward, concise delineation of the Contractor's capabilities to satisfy the requirements of the RFP. Fancy bindings, colored displays and promotional material are not desired. However, technical literature may be included in the Contractor's proposal. The emphasis in each proposal must be on completeness and clarity of content. In order to expedite the evaluation of proposals, it is essential that Contractors follow the RFP format and instructions contained herein.

All proposals must be submitted as specified on the following proposal pages. Any attachments must be clearly identified.

1.1. Submission of a Proposal:

- a. Proposers are required to return their proposals signed by a representative who is authorized to contractually bind the Contractor.
- b. Proposers shall submit their proposals to the Procurement Division on or before the date and time indicated in this RFP. Proposals may be delivered by Mail or in person to:**

**Procurement & Materials Management Division, City of Fort Lauderdale
100 N. Andrews Avenue, RM. 619
Fort Lauderdale, FL #33301**

- c. Proposers shall submit all prices in the formats specified in the RFP.
- d. The Proposer shall examine this RFP carefully. Ignorance of the requirements will not relieve the Contractor from liability and obligations under the Contract.
- e. The City shall not be liable for any costs incurred by Proposers in responding to this RFP.

1.2. Requirements of the Proposal:

All proposals must be submitted on the Proposal Summary Pages included in the RFP. Any attachments must be clearly identified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an Appendix to the proposal.

Proposals must include:

- a. Proposal Summary Forms, including Proposal Signature Page properly signed, attached to the RFP.
- b. Proposals must contain "Total Annual Cost", proposed minimum number of hours covered by the annual fee, and a listing of proposed services to be included in the annual fee. The proposal shall additionally contain a fixed hourly fee schedule/per position for services over and above those encompassed by the annual cost.**
- c. Summary of proposer's experience for similar services, and experience of proposer's staff members (including resumes) who will be assigned to the Contract.
- d. Proposer **must provide a reference list of clients** (including name, address, contact person and phone number), with particular focus on other governmental entities, and any government clients of similar size and complexity to the City of Fort Lauderdale.
- e. Proposer shall provide ONE ORIGINAL, AND SIX (6) COPIES OF THE RFP response and all appendices.**

**PROPOSAL SUMMARY FORMS
PROPOSAL SIGNATURE PAGE**

COMPANY NAME: _____
(Legal registered)

PRINCIPAL CONTACT: _____
(name & title)

ADDRESS: _____

City: _____ ST: _____ ZIP: _____

Telephone: _____ Fax: _____ E-mail: _____

AUTHORIZED SIGNATURE: _____

Title: _____

FEDERAL TAXPAYER IDENTIFICATION NO: _____

Please indicate if your company claims any of the following business designations:

MBE: _____ WBE: _____ SBE: _____

If you have chosen either MBE or WBE designation, please also include any certifications applicable.

Certifications Included? YES: _____ NO

1. Are there any services included in the RFP that are **NOT included** in your proposal?

YES _____ NO

If YES, please explain:

2. ADDENDUM ACKNOWLEDGEMENT:

Bidder acknowledges that the following addenda have been received and are included in his/her RFP response:

Addendum No: _____ **Date Issued:** _____

- 3. VARIANCES:** State ANY variations to specifications in the space provided below. If additional space is required please indicate below and attach any further material you deem necessary. If no statement is contained in the space below, it is hereby implied that your proposal complies with the full scope of this RFP.

- 4.** After City approval of a Contract, how many days will be required before you are able to begin your services?

_____/days

- 5.a)** Indicate your TOTAL ANNUAL COST TO THE CITY, in accordance with the RFP specifications:

\$_____/Cost per quarter

\$_____/Total Annual Cost

If applicable, include an estimated cost/per trip/per day for travel expenses NOT TO EXCEED, as a part of your cost proposal. Provide a break-down of these expenses, as an attachment to your cost response.

\$_____/per trip/per day

Included:?

YES:_____ NO:_____

- 5.b)1.** Indicate the total number of hours of service, included in this fee:

_____hrs.

- 2.** Indicate the hourly fee, after base hours are exceeded, if applicable:

\$_____/per hour

- 5.c)** Have you provided a breakdown of personnel and their proportion of hours, related to the total hours, above?

___YES ___NO

IF NO, please explain:

5.d) Indicate all costs associated with debt issues as follows:

<u>Bond Sizes</u>		<u>Fee/Bond (*)</u>
From	To	
_____ - _____		\$ _____
_____ - _____		\$ _____
_____ - _____		\$ _____
_____ - _____		\$ _____
_____ - _____		\$ _____

(*) Based upon \$5,000 Bonds

5. e) Detail all Additional Costs for Bond Issues:

<u>Item Description</u>	<u>Minimum Cost</u>	<u>Maximum Cost</u>

6.1. **Preparation of and Information to be Included in Proposal.** In order to maintain comparability and facilitate the review process, it is requested that proposals include all the following, and be organized in the manner described below:

- a. **Proposal Summary Signature Page**
- b. **Table of Contents:** Include a clear identification of the material by section and page number.
- c. **Letter of Transmittal** - Should be brief, concise and cover the following major subject areas:
 1. Reflect that the proposer understands the work to be performed and reflect a positive commitment to perform the work in a timely fashion; **include in this section a description of your policy and intended use/participation of minorities and women for this Contract.**
 2. Provide the names, titles, addresses and telephone numbers of personnel who will be authorized to make representations on behalf of the proposer.

6.2. **Profile of Proposer:**

- a. Provide details on the number of partners, managers, supervisors, and other professional staff employed at that office. If appropriate, information should be provided reflecting support services that the servicing office has available to draw upon in fulfilling this proposal.
- b. Give the location of the office(s) from which these services will be performed, **if different from your company address on Proposal Summary Signature Page.** Indicate if the above location is considered local, regional or national.
- c. Describe the range of activities performed by the assigned office.
- d. Describe the assigned offices management and computer assistance capabilities.
- e. **Submit evidence that the firm is a legal entity in the State of Florida.**

7. Additional Supplemental Information:

a. Identify the personnel who will be working on the Contract services, including staff from other than assigned office, if applicable. Include an organizational chart for simplification purposes. Resumes for each professional assigned to the engagement should be submitted and include the following information:

1. Formal Education
 2. Supplemental education relative to governmental financial advisory services.
 3. Experience in providing financial advisory services in general.
 4. Experience in providing financial advisory services to governmental entities specifically.
 5. Memberships in relevant professional organizations
 6. Professional recognitions received.
- b. Provide a list of current and recent clients for which your firm served as financial advisor which are similar in size to the City, including names and addresses of contact persons who may be called upon for references.
- c. Describe the firm's procedures for monitoring the services being provided and communicating with the client.
- d. Provide the following information on the last ten debt issues which you served as financial advisor (Should include all issues within Florida for the last two (2) years):
1. Name of Issuer;
 2. Type and size of issue;
 3. Name and telephone number of issuer's representative.
 4. Name and telephone number of bond counsel for each of the above issues;
 5. Rating achieved and rating of issuer for previous similar issues;
 6. Innovative features utilized on any of the above financings, if appropriate, type of credit structure, type of security, and credit enhancements;
 7. Time frame required to issue the bonds - from the decision to go ahead with the issue to closing and receipt of proceeds.

**8. HAVE YOU INCLUDED THE REQUIRED NUMBER OF PROPOSAL COPIES?
(One Original and Six Copies)**

YES:_____ NO:_____

**EXHIBIT “A”
City of Fort Lauderdale
GENERAL CONDITIONS**

These instructions are standard for all contracts for commodities or services issued through the City of Fort Lauderdale Division of Purchasing. The City may delete, supersede, or modify any of these standard instructions for a particular contract by indicating such change in the Invitation to Bid (ITB) Special Conditions, Technical Specifications, Instructions, Proposal Pages, Addenda, and Legal Advertisement.

PART I BIDDER PROPOSAL PAGE(S) CONDITIONS:

- 1.01 **BIDDER ADDRESS:** The City maintains automated vendor mailing lists for each specific Commodity Class Item. Invitation to Bid (ITB’S) will be mailed first to a selection of Bidders who have fully registered on our system. Requests will be mailed to unregistered Bidders within a reasonable time frame for that bid only. Neither the mailing of one ITB to the vendor, nor a bid in return, will register a vendor on our system. If you wish purchase orders sent to a different address, please so indicate. If you wish payments sent to a different address, please so indicate on your invoice.
- 1.02 **DELIVERY:** Time will be of the essence for any orders placed as a result of this ITB. The City reserves the right to cancel any orders, or part thereof, without obligation if delivery is not made in accordance with the schedule specified by the Bidder and accepted by the City.
- 1.03 **PAYMENT TERMS AND CASH DISCOUNTS:** Payment terms, unless otherwise stated in this ITB, will be considered to be net 30 days after the date of satisfactory delivery at the place of acceptance and receipt of correct invoice at the office specified, whichever occurs last. Bidder may offer cash discounts for prompt payment but they will not be considered in determination of award. If a Bidder offers a discount, it is understood that the discount time will be computed from the date of satisfactory delivery, at the place of acceptance, and receipt of correct invoice, at the office specified, whichever occurs last.
- 1.04 **TOTAL BID DISCOUNT:** If Bidder offers a discount for award of all items listed in the bid, such discount shall be deducted from the total of the firm net unit prices bid and shall be considered in tabulation and award of bid.
- 1.05 **BIDS FIRM FOR ACCEPTANCE:** Bidder warrants, by virtue of bidding, that his bid and the prices quoted in his bid will be firm for acceptance by the City for a period of ninety (90) days from the date of bid opening unless otherwise stated in the ITB.
- 1.06 **VARIANCES:** For purposes of bid evaluation, Bidder’s must indicate any variances, no matter how slight, from ITB General Conditions, Special Conditions, Specifications or Addenda in the space provided in the ITB. No variations or exceptions by a Bidder will be considered or deemed a part of the bid submitted unless such variances or exceptions are listed in the bid and referenced in the space provided on the bidder proposal pages. If variances are not stated, or referenced as required, it will be assumed that the product or service fully complies with the City’s terms, conditions, and specifications.

By receiving a bid, City does not necessarily accept any variances contained in the bid. All variances submitted are subject to review and approval by the City. If any bid contains material variances that, in the City’s sole opinion, make that bid conditional in nature, the City reserves the right to reject the bid or part of the bid that is declared, by the City as conditional.
- 1.07 **NO BIDS:** If you do not intend to bid please indicate the reason, such as insufficient time to respond, do not offer product or service, unable to meet specifications, schedule would not permit, or any other reason, in the space provided in this ITB. Failure to bid or return no bid comments prior to the bid due and opening date and time, indicated in this ITB, may result in your firm being deleted from our Bidder’s registration list for the Commodity Class Item requested in this ITB.
- 1.08 **MINORITY AND WOMEN BUSINESS ENTERPRISE PARTICIPATION AND BUSINESS DEFINITIONS:** The City of Fort Lauderdale wants to increase the participation of Minority Business Enterprises (MBE), Women Business Enterprises (WBE), and Small Business Enterprises (SBE) in it’s purchasing activities. If your firm qualifies in accordance with the below definitions please indicate in the space provided in this ITB.

Minority Business Enterprise (MBE) “A Minority Business” is a business enterprise that is owned or controlled by one or more socially or economically disadvantaged persons. Such disadvantage may arise from cultural, racial, chronic economic circumstances or background or other similar cause. Such persons include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

The term ‘Minority Business Enterprise’ means a business at least 51 percent of which is owned by minority group members or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by minority group members. For the purpose of the preceding sentence, minority group members are citizens of the United States who include, but are not limited to: Blacks, Hispanics, Asian Americans, and Native Americans.

Women Business Enterprise (WBE) a “Women Owned or Controlled Business is a business enterprise at least 51 percent of which is owned by females or, in the case of a publicly owned business, at least 51 percent of the stock of which is owned by females.

Small Business Enterprise (SBE) “Small Business” means a corporation, partnership, sole proprietorship, or other legal entity formed for the purpose of making a profit, which is independently owned and operated, has either fewer than 100 employees or less than \$1,000,000 in annual gross receipts.

BLACK, which includes persons having origins in any of the Black racial groups of Africa.

WHITE, which includes persons whose origins are Anglo-Saxon and Europeans and persons of Indo-European descent including Pakistani and East Indian.

HISPANIC, which includes persons of Mexican, Puerto Rican, Cuban, Central and South American, or other Spanish culture or origin, regardless of race.

NATIVE AMERICAN, which includes persons whose origins are American Indians, Esquimos, Aleuts, or Native Hawaiians.

ASIAN AMERICAN, which includes persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

1.09 **MINORITY-WOMEN BUSINESS ENTERPRISE PARTICIPATION**

It is the desire of the City of Fort Lauderdale to increase the participation of minority (MBE) and women-owned (WBE) businesses in its contracting and procurement programs. While the City does not have any preference or set aside programs in place, it is committed to a policy of equitable participation for these firms. Proposers are requested to include in their proposals a narrative describing their past accomplishments and intended actions in this area. If proposers are considering minority or women owned enterprise participation in their proposal, those firms, and their specific duties have to be identified in the proposal. If a proposer is considered for award, he will be asked to meet with City staff so that the intended MBE/WBE participation can be formalized and included in the subsequent contract.

1.09(a) Certification by Broward County, Florida

CERTIFICATION BY BROWARD COUNTY, FL: If awarded a contract or purchase order as a result of this solicitation, and if the awarded contractor/vendor is claiming minority status in accordance with Section 1.08 of the General Conditions, then said awarded contractor/vendor shall apply for certification by Broward County, Florida, *Division of Equal Employment and Small Business Opportunity*. Contractor/vendor shall provide documentation of application status, and once approved or disapproved by Broward County, must also provide that documentation to the Purchasing Division of the City of Fort Lauderdale.

Part II DEFINITIONS/ORDER OF PRECEDENCE:

- 2.01 **BIDDING DEFINITIONS:** The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process: **INVITATION TO BID (ITB)** when the City is requesting bids from qualified Bidders. **REQUEST FOR PROPOSALS (RFP)** when the City is requesting proposals from qualified Proposers. **BID** – a price and terms quote received in response to an ITB. **PROPOSAL** – a proposal received in response to an RFP. **BIDDER** – Person or firm submitting a Bid. **PROPOSER** – Person or firm submitting a Proposal. **RESPONSIVE BIDDER** – A person whose bid conforms in all material respects to the terms and conditions included in the ITB. **RESPONSIBLE BIDDER** – A person who has the capability in all respects to perform in full the contract requirements, as stated in the ITB, and the integrity and reliability that will assure good faith performance. **FIRST RANKED PROPOSER** – That Proposer, responding to a City RFP, whose Proposal is deemed by the City, the most advantageous to the City after applying the evaluation criteria contained in the RFP. **SELLER** – Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City. **CONTRACTOR** – Successful Bidder or Proposer who is awarded a Purchase Order, award Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City. **CONTRACT** – A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction. **CONSULTANT** – Successful Bidder or Proposer who is awarded a contract to provide professional services to the City. The following terms may be used interchangeably by the City: ITB, or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement, or Purchase Order.

- 2.02 **SPECIAL CONDITIONS:** Any and all Special Conditions contained in this ITB that may be in variance or conflict with these General Conditions shall have precedence over these General Conditions. If no changes or deletions to General Conditions are made in the Special Conditions, then the General Conditions shall prevail in their entirety,

PART III BIDDING AND AWARD PROCEDURES:

- 3.01 **SUBMISSION AND RECEIPT OF BIDS:** To receive consideration, bids must be received prior to the bid opening date and time. Unless otherwise specified, Bidder's should use the proposal forms provided by the City. These forms may be duplicated, but failure to use the forms may cause the bid to be rejected. Any erasures or corrections on the bid must be made in ink and initialed by Bidder in ink. All information submitted by the Bidder shall be printed, typewritten or filled in with pen and ink. Bids shall be signed in ink. Separate bids must be submitted for each ITB issued by the City in separate sealed envelopes properly marked. When a particular ITB or RFP requires multiple copies of bids or proposals they may be included in a single envelope or package properly sealed and identified. Only send bids via facsimile transmission (FAX) if the ITB specifically states that bids sent via FAX will be considered. If such a statement is not included in the ITB, bids sent via FAX will be rejected. Bids will be publicly opened in the Purchasing Office, or other designated area, in the presence of

Bidder's, the public, and City staff. Bidders and the public are invited and encouraged to attend bid openings. Bids will be tabulated and made available for review by Bidder's and the public in accordance with applicable regulations.

- 3.02 **MODEL NUMBER CORRECTIONS:** If the model number for the make specified in this ITB is incorrect, or no longer available and replaced with an updated model with new specifications, the Bidder shall enter the correct model number on the bidder proposal page. In the case of an updated model with new specifications, Bidder shall provide adequate information to allow the City to determine if the model bid meets the City's requirements.
- 3.03 **PRICES QUOTED:** Deduct trade discounts, and quote firm net prices. Give both unit price and extended total. In the case of a discrepancy in computing the amount of the bid, the unit price quoted will govern. All prices quoted shall be F.O.B. destination, freight prepaid (Bidder pays and bears freight charges, Bidder owns goods in transit and files any claims), unless otherwise stated in Special Conditions. Each item must be bid separately. No attempt shall be made to tie any item or items contained in the ITB with any other business with the City.
- 3.04 **TAXES:** The City of Fort Lauderdale is exempt from Federal Excise and Florida Sales taxes on direct purchase of tangible property. Exemption number for Federal Excise taxes is 59-74-0111K, and State Sales tax exemption number is 16-03-196479-54C.
- 3.05 **WARRANTIES OF USAGE:** Any quantities listed in this ITB as estimated or projected are provided for tabulation and information purposes only. No warranty or guarantee of quantities is given or implied. It is understood that the Contractor will furnish the City's needs as they arise.
- 3.06 **APPROVED EQUAL:** When the technical specifications call for a brand name, manufacturer, make, model, or vendor catalog number with acceptance of APPROVED EQUAL, it shall be for the purpose of establishing a level of quality and features desired and acceptable to the City. In such cases, the City will be receptive to any unit that would be considered by qualified City personnel as an approved equal. In that the specified make and model represent a level of quality and features desired by the City, the Bidder must state clearly in his bid any variance from those specifications. It is the Bidder's responsibility to provide adequate information, in his bid, to enable the City to ensure that the bid meets the required criteria. If adequate information is not submitted with the bid, it may be rejected. The City will be the sole judge in determining if the item bid qualifies as an approved equal.
- 3.07 **MINIMUM AND MANDATORY TECHNICAL SPECIFICATIONS:** The technical specifications may include items that are considered minimum, mandatory, or required. If any Bidder is unable to meet, or exceed these items, and feels that the technical specifications are overly restrictive, he must notify the Purchasing Division immediately. Such notification must be received by the Purchasing Division prior to the deadline contained in the ITB, for questions of a material nature, or prior to five (5) days before bid due and open date, whichever occurs first. If no such notification is received prior to that deadline, the City will consider the technical specifications to be acceptable to all bidders.
- 3.08 **MISTAKES:** Bidders are cautioned to examine all terms, conditions, specifications, drawings, exhibits, addenda, delivery instructions and special conditions pertaining to the ITB. Failure of the Bidder to examine all pertinent documents shall not entitle him to any relief from the conditions imposed in the contract.
- 3.09 **SAMPLES AND DEMONSTRATIONS:** Samples or inspection of product may be requested to determine suitability. Unless otherwise specified in Special Conditions, samples shall be requested after the date of bid opening, and if requested should be received by the City within seven (7) working days of request. Samples, when requested, must be furnished free of expense to the City and if not used in testing or destroyed, will upon request of the Bidder, be returned within thirty (30) days of bid award at Bidder's expense. When required, the City may request full demonstrations of units prior to award. When such demonstrations are requested, the Bidder shall respond promptly and arrange a demonstration at a convenient location. Failure to provide samples or demonstrations as specified by the City may result in rejection of a bid.
- 3.10 **LIFE CYCLE COSTING:** If so specified in the ITB, the City may elect to evaluate equipment proposed on the basis of total cost of ownership. In using Life Cycle Costing, factors such as the following may be considered: estimated useful life, maintenance costs, cost of supplies, labor intensity, energy usage, environmental impact, and residual value. The City reserves the right to use those or other applicable criteria, in its sole opinion that will most accurately estimate total cost of use and ownership.
- 3.11 **BIDDING ITEMS WITH RECYCLED CONTENT:** In addressing environmental concerns, the City of Fort Lauderdale encourages Bidders to submit bids or alternate bids containing items with recycled content. When submitting bids containing items with recycled content, Bidder shall provide documentation adequate for the City to verify the recycled content. The City prefers packaging consisting of materials that are degradable or able to be recycled. When specifically stated in the ITB, the City may give preference to bids containing items manufactured with recycled material or packaging that is able to be recycled.
- 3.12 **USE OF OTHER GOVERNMENTAL CONTRACTS:** The City reserves the right to reject any part or all of any bids received and utilize other available governmental contracts, if such action is in its best interest.
- 3.13 **QUALIFICATIONS/INSPECTION:** Bids will only be considered from firms normally engaged in providing the types of commodities/services specified herein. The City reserves the right to inspect the Bidder's facilities, equipment, personnel, and organization at any time, or to take any other action necessary to determine Bidder's

ability to perform. The Purchasing Manager reserves the right to reject bids where evidence or evaluation is determined to indicate inability to perform.

- 3.14 **BID SURETY:** If Special Conditions require a bid security, it shall be submitted in the amount stated. A bid security can be in the form of a bid bond, postal money order, cashiers check, or irrevocable letter of credit. Bid security will be returned to the unsuccessful bidders as soon as practicable after opening of bids. Bid security will be returned to the successful bidder after acceptance of the performance bond or irrevocable letter of credit, if required; acceptance of insurance coverage, if required; and full execution of contract documents, if required; and full execution of contract documents, if required; or conditions as stated in Special Conditions.
- 3.15 **PUBLIC RECORDS:** Florida law provides that municipal records shall at all times be open for personal inspection by any person. Section 119.01, F.S., The Public Records Law. Information and materials received by City in connection with an ITB response shall be deemed to be public records subject to public inspection upon award, recommendation for award, or 10 days after bid opening, whichever occurs first. However, certain exemptions to the public records law are statutorily provided for in Section 119.07, F.S. If the Proposer believes any of the information contained in his or her response is exempt from the Public Records Law, then the Proposer, must in his or her response, specifically identify the material which is deemed to be exempt and cite the legal authority for the exemption, otherwise, the City will treat all materials received as public records.
- 3.16 **PROHIBITION OF INTEREST:** No contract will be awarded to a bidding firm who has City elected officials, officers or employees affiliated with it, unless the bidding firm has fully complied with current Florida State Statutes and City Ordinances relating to this issue. Bidders must disclose any such affiliation. Failure to disclose any such affiliation will result in disqualification of the Bidder and removal of the Bidder from the City's bidder lists and prohibition from engaging in any business with the City.
- 3.17 **RESERVATIONS FOR AWARD AND REJECTION OF BIDS:** The City reserves the right to accept or reject any or all bids, part of bids, and to waive minor irregularities or variations to specifications contained in bids, and minor irregularities in the bidding process. The City also reserves the right to award the contract on a split order basis, lump sum basis, individual item basis, or such combination as shall best serve the interest of the City. The City reserves the right to make an award to the responsive and responsible bidder whose product or service meets the terms, conditions, and specifications of the ITB and whose bid is considered to best serve the City's interest. In determining the responsiveness of the offer and the responsibility of the Bidder, the following shall be considered when applicable: the ability, capacity and skill of the Bidder to perform as required; whether the Bidder can perform promptly, or within the time specified, without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Bidder; the quality of past performance by the Bidder; the previous and existing compliance by the Bidder with related laws and ordinances; the sufficiency of the Bidder's financial resources; the availability, quality and adaptability of the Bidder's supplies or services to the required use; the ability of the Bidder to provide future maintenance, service or parts; the number and scope of conditions attached to the bid.

If the ITB provides for a contract trial period, the City reserves the right, in the event the selected bidder does not perform satisfactorily, to award a trial period to the next ranked bidder or to award a contract to the next ranked bidder, if that bidder has successfully provided services to the City in the past. This procedure to continue until a bidder is selected or the contract is re-bid, at the sole option of the City.

- 3.18 **LEGAL REQUIREMENTS:** Applicable provisions of all federal, state, county laws, and local ordinances, rules and regulations, shall govern development, submittal and evaluation of all bids received in response hereto and shall govern any and all claims and disputes which may arise between person(s) submitting a bid response hereto and the City by and through its officers, employees and authorized representatives, or any other person, natural or otherwise; and lack of knowledge by any bidder shall not constitute a cognizable defense against the legal effect thereof.

PART IV BONDS AND INSURANCE

- 4.01 **PERFORMANCE BOND/IRREVOCABLE LETTER OF CREDIT:** If a performance bond or irrevocable letter of credit is required in Special Conditions, the Contractor shall within fifteen (15) working days after notification of award, furnish to the City a Performance Bond or an Unconditional Irrevocable Letter of Credit payable to the City of Fort Lauderdale, Florida, in the face amount specified in Special Conditions as surety for faithful performance under the terms and conditions of the contract. If the bond is on an annual coverage basis, renewal for each succeeding year shall be submitted to the City thirty (30) days prior to the termination date of the existing Performance Bond. The Performance Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida and having a resident agent. If a Letter of Credit is chosen, it must be in a form acceptable to the City, drawn on a local (Broward, Dade or Palm Beach Counties) bank acceptable to the City and issued in favor of the City of Fort Lauderdale, Florida. If a Bidder wishes to use a non-local bank, he must have prior City approval of the requirements to draw against the Letter of Credit.

Acknowledgement and agreement is given by both parties that the amount herein set for the Performance Bond or Irrevocable Letter of Credit is not intended to be nor shall be deemed to be in the nature of liquidated damages nor is it intended to limit the liability of the Contractor to the City in the event of a material breach of this Agreement by the Contractor.

- 4.02 **INSURANCE:** If the Contractor is required to go on to City property to perform work or services as a result of ITB award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City or specified in Special Conditions.

The Contractor shall provide to the Purchasing Division original certificates of coverage and receive notification of approval of those certificates by the City's Risk Manager prior to engaging in any activities under this contract. The Contractor's insurance is subject to the approval of the City's Risk Manager. The certificates must list the City as an ADDITIONAL INSURED and shall have no less than thirty (30) days written notice of cancellation or material change. Further modification of the insurance requirements may be made at the sole discretion of the City's Risk Manager if circumstances change or adequate protection of the City is not presented. Bidder, by submitting his bid, agrees to abide by such modifications.

PART V. PURCHASE ORDER AND CONTRACT TERMS:

- 5.01 **COMPLIANCE TO SPECIFICATIONS, LATE DELIVERIES/PENALTIES:** Items offered may be tested for compliance to bid specifications. Items delivered which do not conform to bid specifications may be rejected and returned at Contractor's expense. Any violation resulting in contract termination for cause or delivery of items not conforming to specifications, or late delivery may also result in:
- Bidder's name being removed from the City's bidder's mailing list for a specified period and Bidder will not be recommended for any award during that period.
 - All City Departments being advised to refrain from doing business with the Bidder.
 - All other remedies in law or equity.
- 5.02 **ACCEPTANCE, CONDITION, AND PACKAGING:** The material delivered in response to ITB award shall remain the property of the Seller until a physical inspection is made and the material accepted to the satisfaction of the City. The material must comply fully with the terms of the ITB, be of the required quality, new, and the latest model. All containers shall be suitable for storage and shipment by common carrier, and all prices shall include standard commercial packaging. The City will not accept substitutes of any kind. Any substitutes or material not meeting specifications will be returned at the Bidder's expense. Payment will be made only after City receipt and acceptance of materials or services.
- 5.03 **SAFETY STANDARDS:** All manufactured items and fabricated assemblies shall comply with applicable requirements of the Occupational Safety and Health Act of 1970 as amended, and be in compliance with Chapter 442, Florida Statutes. Any toxic substance listed in Section 38F-41.03 of the Florida Administrative Code delivered as a result of this order must be accompanied by a completed Material Safety Data Sheet (MSDS).
- 5.04 **ASBESTOS STATEMENT:** All material supplied must be 100% asbestos free. Bidder, by virtue of bidding, certifies that if awarded any portion of the ITB he will supply only material or equipment that is 100% asbestos free.
- 5.05 **OTHER GOVERNMENTAL ENTITIES:** If the Bidder is awarded a contract as a result of this ITB, he will, if he has sufficient capacity or quantities available, provide to other governmental agencies, so requesting, the products or services awarded in accordance with the terms and conditions of the ITB and resulting contract. Prices shall be F.O.B. delivered to the requesting agency.
- 5.06 **VERBAL INSTRUCTIONS PROCEDURE:** No negotiations, decisions, or actions shall be initiated or executed by the Contractor as a result of any discussions with any City employee. Only those communications that are in writing from an authorized City representative may be considered. Only written communications from Contractors, which are assigned by a person designated as authorized to bind the Contractor, will be recognized by the City as duly authorized expressions on behalf of Contractors.
- 5.07 **INDEPENDENT CONTRACTOR:** The Contractor is an independent contractor under this Agreement. Personal services provided by the Proposer shall be by employees of the Contractor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies unless otherwise stated in this ITB, and other similar administrative procedures applicable to services rendered under this contract shall be those of the Contractor.
- 5.08 **INDEMNITY/HOLD HARMLESS AGREEMENT:** The Contractor agrees to protect, defend, indemnify, and hold harmless the City of Fort Lauderdale and its officers, employees and agents from and against any and all losses, penalties, damages, settlements, claims, costs, charges for other expenses, or liabilities of every and any kind including attorney fees, in connection with or arising directly or indirectly out of the work agreed to or performed by Contractor under the terms of any agreement that may arise due to the bidding process. Without limiting the foregoing, any and all such claims, suits, or other actions relating to personal injury, death, damage to property, defects in materials or workmanship, actual or alleged violations of any applicable Statute, ordinance, administrative order, rule or regulation, or decree of any court shall be included in the indemnity hereunder.
- 5.09 **TERMINATION FOR CAUSE:** If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Contractor shall violate any of the provisions of this Agreement, the City may upon written notice to the Contractor terminate the right of the Contractor to proceed under this Agreement, or with such part or parts of the Agreement as to which there has been default, and may hold the Contractor liable for any damages caused to the City by reason of such default and termination. In the event of such termination, any completed services performed by the Contractor under this Agreement shall, at the option of the City, become the City's property and the Contractor shall be entitled to receive equitable compensation for any work completed to the satisfaction of the City. The Contractor, however, shall not be relieved of liability to the City for damages sustained by the City by reason of any breach of the Agreement by the Contractor, and the City may withhold any

payments to the Contractor for the purpose of setoff until such time as the amount of damages due to the City from the Contractor can be determined.

- 5.10 **TERMINATION FOR CONVENIENCE:** The City reserves the right, in its best interest as determined by the City, to cancel contract by giving written notice to the Contractor thirty (30) days prior to the effective date of such cancellation.
- 5.11 **CANCELLATION FOR UNAPPROPRIATED FUNDS:** The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
- 5.12 **RECORDS/AUDIT:** The Contractor shall maintain during the term of the contract all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract. The form of all records and reports shall be subject to the approval of the City's Internal Auditor. The Contractor agrees to make available to the City's Internal Auditor, during normal business hours and in Broward, Dade or Palm Beach Counties, all books of account, reports and records relating to this contract for the duration of the contract and retain them for a minimum period of one (1) year beyond the last day of the contract term.
- 5.13 **PERMITS, TAXES, LICENSES:** The successful Contractor shall, at his own expense, obtain all necessary permits, pay all licenses, fees and taxes, required to comply with all local ordinances, state and federal laws, rules and regulations applicable to business to be carried on under this contract.
- 5.14 **LAWS/ORDINANCES:** The Contractor shall observe and comply with all Federal, state, local and municipal laws, ordinances rules and regulations that would apply to this contract.
- 5.15 **NON-DISCRIMINATION:** There shall be no discrimination as to race, sex, color, creed, age or national origin in the operations conducted under this contract.
- 5.16 **UNUSUAL CIRCUMSTANCES:** If during a contract term where costs to the City are to remain firm or adjustments are restricted by a percentage or CPI cap, unusual circumstances that could not have been foreseen by either party to the contract occur, and those circumstances significantly affect the Contractor's cost in providing the required items or services, then the Contractor may request adjustments to the costs to the City to reflect the changed circumstances. The circumstances must be beyond the control of the Contractor, and the requested adjustments must be fully documented. The City may, after examination, refuse to accept the adjusted costs if they are not properly documented, increases are considered to be excessive, or decreases are considered to be insufficient. In the event the City does not wish to accept the adjusted costs and the matter cannot be resolved to the satisfaction of the City, the City will reserve the following options:
1. The contract can be canceled by the City upon giving thirty (30) days written notice to the Contractor with no penalty to the City or Contractor. The Contractor shall fill all City requirements submitted to the Contractor until the termination date contained in the notice.
 2. The City requires the Contractor to continue to provide the items and services at the firm fixed (non-adjusted) cost until the termination of the contract term then in effect.
 3. If the City, in its interest and in its sole opinion, determines that the Contractor in a capricious manner attempted to use this section of the contract to relieve themselves of a legitimate obligation under the contract, and no unusual circumstances had occurred, the City reserves the right to take any and all action under law or equity. Such action shall include, but not be limited to, declaring the Contractor in default and disqualifying him for receiving any business from the City for a state period of time.
- If the City does agree to adjusted costs, these adjusted costs shall not be invoiced to the City until the Contractor receives notice in writing signed by a person authorized to bind the City in such matters.
- 5.17 **ELIGIBILITY:** If applicable, the Contractor must first register with the Department of State of the State of Florida, in accordance with Florida State Statutes, prior to entering into a contract with the City.
- 5.18 **PATENTS AND ROYALTIES:** The Contractor, without exception, shall indemnify and save harmless the City and its employees from liability of any nature and kind, including cost and expenses for or on account of any copyrighted, patented or un-patented invention, process, or article manufactured or used in the performance of the contract, including its use by the City. If the Contractor uses any design, device, or materials covered by letters, patent or copyright, it is mutually agreed and understood without exception that the bid prices shall include all royalties or costs arising from the use of such design, device, or materials in any way involved in the work.
- 5.19 **ASSIGNMENT:** Contractor shall not transfer or assign the performance required by this ITB without the prior written consent of the City. Any award issued pursuant to this ITB, and the monies, which may become due hereunder, are not assignable except with the prior written approval of the City Manager or selected designee.
- 5.20 **LITIGATION VENUE:** The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District in and for the State of Florida.